

MAR 14 2006

1 For The Northern Mariana Islands
2 By _____
3 (Deputy Clerk)

4
5
6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE NORTHERN MARIANA ISLANDS

9
10 KRISSANA SANUSAT, SUMANG SETSEWAN,
11 VACHINAPORN NGAMWONG, and RATREE
12 DITWISET,
13 Plaintiff,

14 vs.
15 JK & S CORPORATION and KYUNGTAI KIM,
16
17 Defendant.

Case No. CV-05-0002

18
19 ORDER GRANTING ATTORNEY
20 AGUILAR'S MOTION TO
21 WITHDRAW AS COUNSEL

22
23 Attorney Danilo T. Aguilar re-filed his motion to withdraw as counsel on March 13, 2006 on
24 the basis that his client Kyungtai Kim has acted in a way to render continued representation
25 unreasonably difficult.

26
27 Under Rule of Discipline 2(h), which adopts the Model Rules of Professional Conduct, Mr. Aguilar
28 may withdraw because "the representation . . . has been rendered unreasonably difficult by the
29 client[] or . . . other good cause . . ." See Model Rules of Prof'l Conduct R. 1.16(b)(6) & (7).
30 However, before withdrawing Mr. Aguilar must "give[] reasonable notice to the client, allow[] time
31 for employment of other counsel, surrender[] papers and property to which the client is entitled and
32 refund[] any advance payment of fee or expense that has not been earned or incurred[,] Model
33 Rules of Prof'l Conduct R. 1.16(d).

34
35 For Mr. Kim to be reasonably notified that his attorney Mr. Aguilar intends to withdraw as
36 counsel, Mr. Aguilar must make a reasonable attempt to actually apprise Mr. Kim of his intent to do
37 so. In this respect, the court denied Mr. Aguilar's first motion to withdraw because the court could

✓

1 not specifically determine what attempts have been made to contact the client.

2 However, since the Mr. Aguilar's first motion, he has sent a written notice to Mr. Kim at Mr.
3 Kim's last known address. The written notice explained to Mr. Kim that he was behind in his
4 payments on the judgment and has failed to pay the balance of almost \$2,000 for Mr. Aguilar's legal
5 services. Mr. Aguilar has also attempted to personally meet Mr. Kim at his alleged residence in
6 Urdaneta, Pangasinan, Phillipines. While he was unable to find Mr. Kim, he did leave his
7 Philippines cell phone number and his Saipan office number with Mr. Kim's wife's relatives who
8 were staying at the residence. In addition, on three separate occasions, Mr. Aguilar's wife's sister
9 visited Mr. Kim's residence and was greeted by a person who told her that Mr. Kim was informed of
10 her visits.

11 Accordingly, despite Mr. Aguilar's efforts to carry out his duties as counsel for Defendant,
12 Defendant has rendered representation unreasonably difficult. Furthermore, because Mr. Aguilar has
13 made a reasonable attempt to actually apprise Mr. Kim of Mr. Kim's failure to pay attorney fees and
14 Mr. Aguilar's intent to withdraw as counsel,

15 THE COURT GRANTS Mr. Aguilar's motion to withdraw as counsel of record.

16 IT IS SO ORDERED.

17 DATED this 14th day of March, 2006.

Don R. Munson

ALEX R. MUNSON
Chief Judge